

Review of the New Juvenile Proceedings Rules: Delinquency, designated Cases, & Minor PPO's

POWERPOINT PRESENTATION

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RULES COVERED

Definitions and General Rules

Delinquency Proceedings (14)

Designated Cases (6)

Minor PPO Enforcement (9)

KEY DEFINITIONS & TERMS NOW DELETED

"Major Offense"

"Reportable Juvenile Offense"

"Expunge"

Variations on

Current Definitions

"Confidential File"

"Party" in Delinquency Proceedings

"Parent"

"Prosecutor" in PPO Enforcement proceedings

NEW DEFINITIONS USED IN DELINQUENCY

"Case"

"Guardian"

"Legal Custodian"

"Register of Actions"

PRE-TRIAL PROCEDURAL CHANGES

Expanded Discovery

Limit on Depositions

Sanctions for failure to provide discovery

"Notice of Intent"

DESTRUCTION OF COURT RECORDS

Court Records

“Destruction” v “Expungement”

Permanent Register of Actions

Consent Calendar case destruction

CASE SCENARIO #1

A 16 year-old juvenile - Larceny in a Building. Which is NOT accurate?

_____ There will always be a public record if the juvenile is adjudicated and disposition is made.

_____ All public records will be destroyed at 30, including the Register of Actions.

_____ If the juvenile is placed on the Consent Calendar, the records will be destroyed and the RA, if any, will be non-public.

_____ The court records may be destroyed for good cause because Larceny in a Building is NOT an adjudicated offense described in MCL 712A.18e.

_____ If the juvenile’s case is diverted, there will be no RA and the record will be destroyed within 28 days of juvenile’s 17th birthday.

INTER CIRCUIT TRANSFERS

Determining “Residence”

Child ‘placed’ in county by court order or agency

Bifurcated proceedings and transfer of records

DELINQUENCY RULES

.931 - .939 ‘Preliminaries’

.941 - .942 Pleas and Trials

.943 - .946 Disposition and post-disposition proceedings

.950 Traditional Waiver

'PRELIMINARIES' - I

.931 Initiating Proceedings

.932 Summary Proceedings

.933 Physical Control

.934 Court Appearance

INITIATING PROCEEDINGS

Citation or Appearance Ticket (MCL 764.9)

Petition

SUMMARY INITIAL PROCEEDINGS

Preliminary Inquiry

Crime Victims Rights Act CVRA

Consent Calendar

Formal Calendar

.932 SUMMARY INITIAL PROCEEDINGS CVRA REQUIREMENTS

Proceedings on record

Notice & opportunity to be heard

Restitution

.932(C) CONSENT CALENDAR - I : CHANGES

Petition not authorized

'Transfer back' possible from formal calendar

No plea

No adjudication

.932(C) CONSENT CALENDAR - II: MORE CHANGES

Conference (not hearing)

Case Plan

No disposition

Closure

Confidentiality

CASE SCENARIO #2

The plea and adjudication vacated The authorization of petition set aside. If the judge grants the request, which of the following would not be true?

☐ The plea and adjudication would be vacated.

☐ The authorization would be set aside

☐ There would be NO restitution

☐ The Register of Actions would become non-public

☐ A Consent Calendar case plan would be adopted

CASE SCENARIO #3

A juvenile is charged in a petition with Assault and Batter. What must the Court do before placing the case on the Consent Calendar?

☐ Give the prosecutor notice of intent to remove the case from the adjudicative process

☐ Schedule a hearing, and permit the Victim and the Prosecutor to address the court.

☐ Order the juvenile or parents to make full restitution

☐ Obtain the juvenile and the parent's consent

☐ All of the above

'PRELIMINARIES' - II

.933 - Physical Control

.934 - Arranging Court Appearance Circumstance for detention expanded

.935 – PRELIMINARY HEARING - I

Time

Procedure

Determination Release/Detain

Detention

Release - Conditions

Bail

.935 – PRELIMINARY HEARING - II:

CURRENT “A juvenile shall not be removed from the parent ... unless...”

NEW “in determining whether the juvenile is to be released, with or without conditions, or detained...”

.935 – PRELIMINARY HEARING - III: Detention

‘Circumstances’ expanded

Evidence

Findings

.935 – PRELIMINARY HEARING - IV: RELEASE

Conditions (compare to MCR 6.106(D))

Violation of Conditions of Release

CASE SCENARIO #4 A juvenile is released from detention after a preliminary hearing on condition that he be at home when not in school, and that he not associate with any of 3 co-defendants named in the now-authorized petition. The police see him with one of the co-defendants on the street on the weekend. Which of the following could apply:

_____ Court could order immediate apprehension and detention

_____ Court could hold detention hearing and modify conditions of release including bail

_____ Court could detain the juvenile until further order, but ONLY if juvenile is given hearing on violation

_____ All of the above

_____ A & B Only

‘PRELIMINARIES’ - III

.936 Fingerprinting / “Juvenile Offense” defined in MCL 28.243

NOT “Reportables”

.939 District Court Transfers

PLEAS & TRIALS

.941 Pleas

.942 Trials - Residence / Venue / Transfer / Bifurcation

CASE SCENARIO # 5 At a pretrial on the formal calendar, a juvenile wants to enter a no contest plea. Which of the following statements is not accurate?

_____ Court must always record the plea, including any agreement with or objection to it

_____ Court may accept plea even if it is conditioned on preserving an issue for appellate review

_____ Court must make sure juvenile is understandingly and voluntarily making plea

_____ Court may only accept plea if there is parental support for it

_____ Court must find support for plea by means other than questioning the juvenile

CASE SCENARIO # 6 A juvenile who lives in Berrien Co. is detained in Marquette Co. for armed robbery. The Marquette Prosecutor files a petition which is authorized. Trial must occur:

_____ In Marquette Co. if prosecutor designates the case

_____ In Berrien Co. or other county if Marquette Co. transfers the case to county of residence

_____ In Marquette Co., if after transfer the receiving court changes venue for convenience of witnesses

_____ In Marquette Co, with the disposition in the county of residence, if the judges of the transferring and receiving courts agree to bifurcate the proceedings

_____ All of the above are possible

DISPOSITION AND POST-DISPOSITION

.943 Dispositional Hearing

.944 Probation Violation

.945 Dispositional Review

.946 Post-Dispositional Secure Detention Pending Return

.943 DISPOSITIONAL HEARING

Evidence

Graduated Sanctions

Crime Victims Rights Act assessment

Secretary of State abstract

CASE SCENARIO # 7 Which of the following must be completed before the court may enter a disposition following an adjudication of 4th degree criminal sexual conduct (a 2 year misdemeanor if committed by an adult)?

_____ Juvenile must be tested for HIV and counseled

_____ Juvenile must register as a sex offender

_____ Juvenile must be fingerprinted

_____ 1st and 2nd statement only

_____ 1st , 2nd , and 3rd statements

CASE SCENARIO # 8 In making a second or subsequent disposition on an adjudicated juvenile, which of the following options is not available to the court?

_____ Waiver of jurisdiction to the adult criminal court

_____ Additional conditions of or extending the term of probation

_____ Ordering a juvenile residing at home into an out-of-home placement

_____ Ordering a more restrictive placement

_____ Ordering state wardship for a juvenile not previously a state ward

SUPPLEMENTAL DISPOSITIONS DISPOSITIONAL REHEARINGS

.944 PROBATION VIOLATION

Petition

Detention Hearing

Probation Violation Hearing

Pleas

Disposition; reporting

CASE SCENARIO # 9 If a Probation Officer files a supplemental petition which alleges a juvenile violated probation, the court:

_____ Must hold a detention hearing if the juvenile is apprehended

_____ Must schedule a violation hearing for detained probation violators who deny the violation or who remain silent

_____ Must conduct a non-jury violation hearing for probation violators who appear after notice and who deny the violation

_____ Record the findings as a violation of probation only if the violation is proven

_____ Must do all of the above

.945 DISPOSITIONAL REVIEW

Dispositional Review Hearings

Hearing to Extend Jurisdiction

Review of Extended Jurisdiction cases

Conditional Release

CASE SCENARIO # 10 A juvenile is committed to a county facility as a disposition for an offense. The juvenile is then conditionally released home. If the juvenile reportedly violates the conditions of release while at home, which of the following are true?

_____ Juvenile can be immediately returned to the facility until next dispositional review (with no hearing), if specified in court's original order

_____ Juvenile can immediately be placed out of home with no hearing required until next review as long as the new placement is not more physically restrictive

_____ Juvenile who allegedly violates conditional release is entitled to the same procedures as a probation violator

_____ Court can summarily enter a supplemental disposition

_____ Any of the above may apply in this situation

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946 POST-DISPOSITIONAL SECURE DETENTION

General

Time for Detention Hearing

Procedure

CASE SCENARIO # 11 A juvenile placed out of home by the court or FIA for a non-status juvenile offense and who then leaves that placement without authority will:

_____ Be detained without bail after being apprehended if the court approves detention and declines to set bail

_____ Be given 48-hour detention hearing unless a preliminary hearing on new petition was filed

_____ Alternately be given the 48-hour detention hearing unless a probation violation petition is filed

_____ Be detained until return to placements if court holds 48-hour detention hearing

_____ Find that all of the above procedures may apply

.950 'TRADITIONAL WAIVER'

Authority

DESIGNATED PROCEEDING RULES (.951 - .956)

- .951 - Initiating
- .952 - Designation Hearing
- .953 - Preliminary Examination
- .954 - Trial
- .955 - Sentencing/Disposition
- .956 - Probation Violation

MINOR PPO RULES - I

- .981 - Issuance, et al
- .982 - Enforcement
- .983 - Initiation of Contempt by Supplemental Petition

CASE SCENARIO # 12 A 16 year old juvenile is a respondent in a PPO action. The PPO prohibits the juvenile from going to the petitioner's house. The juvenile has been served, but goes to the house anyway and the police detain him. Which of the following are true?

1. ____ Juvenile can be charged and prosecuted for criminal contempt or violating PPO
2. ____ Juvenile can be jailed for 93 days if violation proven
3. ____ Juvenile may be fingerprinted if found guilty
4. ____ Juvenile can receive juvenile disposition under MCL 712A.18 if found guilty
5. ____ 1st, 3rd, and 4th are possible

MINOR PPO RULES - II

- .984 - Apprehension
- .985 - Preliminary Hearing
- .986 - Pleas
- .987 - Violation Hearing

MINOR PPO RULES - III

.988 -Dispositional Hearing

.989 - Supplemental Dispositions

SUMMARY

Rules effective May 1, 2003

Govern Family Division procedure in Juvenile Proceedings

Consider legal requirements

Create Questions +Answers